

## **Remarks**

Reconsideration of the above referenced application in view of the enclosed amendment and remarks is requested. Claims 18-25, 27-33, 35-38, 41, 47 and 49 have been amended. Existing claims 1-8, 10-16, 18-25, 27-33, 35-38, 40-50 remain in the application. Applicants note with appreciation that the Examiner has indicated that Claims 1-8, 10-16, 18-25, 27-33, 35-38 and 40-50 are directed to allowable subject matter.

## **ARGUMENT**

### **35 U.S.C. § 101 Rejections**

The Examiner rejects Claims 18-25, 27-33, 35-38 and 40-48 under 35 U.S.C. § 101, asserting that the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed and Claims 18-25, 27-33, 35-38 and 40-48 are believed allowable as amended.

Claims 18-25, 27-33 and 31-33 are amended to recite a *computer readable storage medium having instructions stored therein*. The specification describes that

“The figures, written description, and claims may variously be understood as representing instructions taken alone, instructions as organized in a particular form, e.g., packet, serial, parallel, etc., and/or instructions together with their storage or carrier media.”

The Examiner asserts that the specification states that the instructions can be stored on a carrier medium. However, as amended, the claimed invention recites only a computer readable storage medium. This recitation clearly limits the instructions to being on a *storage* medium, which has been deemed statutory subject matter since the *In re Beauregard* case [citations omitted]. It has always been the case that the description in the specification may exceed that which is claimed by the Applicant(s). Thus, it is believed that, as amended, Claims 18-25 and 27-33 are allowable.

The Examiner asserts that Claims 31-33, 35-38 and 40-48 are directed towards means that have no structure described in the specification. Claims 31-33 are directed toward computer readable media, having inherent structure. Applicants further disagree with the Examiner's

assessment with regards to Claims 35-38 and 40-48. The specification describes structure throughout, especially with regards to Figures 3 and 4.

The specification describes performing a trace route between the server and the client's network address. Trace routing involves determining a network path between the client and server. Several embodiments are described and some are known in the art. With regards to Claim 35, for instance, an embodiment of determining a possible geographic location is described, at least on page 7, beginning at line 4. The specification describes that

“In one embodiment, a database stores known formats and indicators of geographically significant portions of the stored formats. In one embodiment, if an address does not match any stored known formats, or if it appears to match multiple formats, then an expert system, rule based system, or other deductive system may be utilized to analyze a text based network address to determine its geographic location.”

It is commonly understood that a database is stored on a computer readable medium, or storage device, which inherently has structure. Further, Claims 35, 38, and 41 are amended to explicitly recite the server (processor) coupled to the network. There is physical structure in the recited claims. It will be understood that the recited means may be implemented in hardware, firmware or software residing on the server or client, depending on the means. Various embodiments of the means are described in the specification. Even if most of the means elements are to be understood as implemented in software, the recited claims are not software *per se*. Moreover, storing the geographical result in storage medium provides a concrete, tangible and useful result, as well as reciting structure. Thus, Claims 35, 38, 41 and their progeny are believed to be statutory, and allowable.

It should be noted that Claims 44-45 and 50 are dependent on allowed *method* claims, and thus, are statutory under § 101. Based on the amendments and foregoing discussion, Claims 35-38, 40-48 should be permitted to issue along with allowable Claims 1-8, 10-16, 18-25, 27-33, 35-38 and 40-50.

### **35 U.S.C. § 112 Rejections:**

Claim 49 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is moot based on the foregoing amendments and discussion.

**CONCLUSION**

In view of the foregoing, Claims 1-8, 10-16, 18-25, 27-33, 35-38, 40-50 are all in condition for allowance. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (703) 633-6845. Early issuance of Notice of Allowance is respectfully requested. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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